Google Inc. et al v. Egger et al Doc. 585

PILLSBURY WINTHROP SHAW PITTMAN LLP
BRUCE A. ERICSON #76342
JACOB R. SORENSEN #209134
MARC H. AXELBAUM #209855
50 Fremont Street
Post Office Box 7880
San Francisco, CA 94120-7880
Telephone: (415) 983-1000
Facsimile: (415) 983-1200

SIDLEY AUSTIN LLP
DAVID W. CARPENTER (admitted *pro hac vice*)
BRADFORD A. BERENSON (admitted *pro hac vice*)
EDWARD R. MCNICHOLAS (admitted *pro hac vice*)
DAVID LEE LAWSON (admitted *pro hac vice*)
ERIC A. SHUMSKY #206124
1501 K Street, N.W.
Washington, D.C. 20005
Telephone: (202) 736-8010
Facsimile: (202) 736-8711

Attorneys for Specially Appearing Defendants AT&T Inc. and BellSouth Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re:

NATIONAL SECURITY AGENCY TELECOMMUNICATIONS RECORDS LITIGATION

This Document Relates To:

McMurray v. Verizon Communications, Inc., et al., No. 09-cv-0131-VRW

MDL Dkt. No. 06-1791-VRW

DECLARATION OF JAMES LACY IN SUPPORT OF THE MOTION OF SPECIALLY APPEARING DEFENDANTS AT&T INC. AND BELLSOUTH CORPORATION TO DISMISS PLAINTIFFS' COMPLAINT FOR LACK OF PERSONAL JURISDICTION

Courtroom: 6, 17th Floor
Judge: Hon. Vaughn R. Walker

Dockets.Justia.com

I, JAMES LACY, declare as follows:

1. I am over the age of 21 and am fully competent to make this Declaration. I am a Controller in the Finance Department of BellSouth Corporation. My job duties include serving as the Controller for BellSouth Corporation and BellSouth Telecommunications, Inc. I have been in that position or similar positions since 2004, and with the BellSouth family of companies since 2000. As such, I am personally familiar with the corporate structure of BellSouth Corporation and its subsidiary corporations.

2. All of the statements in this Declaration are based upon my personal knowledge and review of corporate business records. I offer this Declaration in support of the Motion of Specially Appearing Defendants AT&T Inc. and BellSouth Corporation to Dismiss the Complaint for Lack of Personal Jurisdiction. If called as a witness, I could and would testify to any of the facts contained in this Declaration.

3. BellSouth Corporation was incorporated in Georgia in 1983 as one of seven regional holding companies that were divested on January 1, 1984 by the American Telephone and Telegraph Company as part of the settlement of *United States v. Western Electric Company, Inc.*, Civil Action No. 82-0192 (D.D.C.). As part of that divestiture, BellSouth Corporation received equity interests in the Southern Bell Telephone Company and South Central Bell Telephone Company. Its principal place of business is in Atlanta, Georgia.

4. In its capacity as a holding company, BellSouth Corporation conducts no business directly with the public. BellSouth Corporation does not own or maintain a telecommunications network, and does not provide telecommunications services or Internet services to the public. BellSouth Corporation is a holding company owning stock in its subsidiaries, some of which offer telecommunications services, but BellSouth Corporation itself does not own the switches, lines, and other equipment in the telecommunications networks.

5. BellSouth Corporation is a legally and factually separate corporate entity, distinct from its subsidiaries. Each of BellSouth's subsidiaries maintains its own independent corporate, partnership, or limited liability company status, identity, and structure.

6. BellSouth Corporation has no presence in New York. It has no office or mailing address in New York, and does not own, lease, manage, or maintain any real property, office, residence or place of business in New York. It has no employees in New York. BellSouth Corporation does not have an investors relations office in New York; that office is located in Atlanta, Georgia.

7. BellSouth Corporation is not an insurance company and does not insure any property or risk in New York or elsewhere.

8. BellSouth Corporation does not pay income, property or franchise taxes to the State of New York.

9. BellSouth Corporation is not registered, licensed or otherwise qualified to do business in New York and, therefore, has not appointed a registered agent for service of process in New York.

10. BellSouth Corporation does not manufacture any product of any kind or provide any service of any nature that could find its way through the stream of commerce into New York. BellSouth Corporation does not do business in New York.

11. The acronym "AT&T" is a brand often appearing next to a round blue-and-white logo. The name "AT&T" is sometimes followed by a state name as a "doing-business-as" name for certain companies in AT&T Inc.'s family of companies. The use of the corporate brand and logo is shared by multiple subsidiary companies offering different products and services and serving different geographic territories. For example, today BellSouth Telecommunications Inc. in Georgia does business as (d/b/a) "AT&T Georgia." Similarly, Michigan Bell Telephone Company's d/b/a is "AT&T Michigan," Southern New England Telephone Company's d/b/a is "AT&T Connecticut," and so on.

12. The AT&T brand and logo are owned and licensed by AT&T Intellectual Property, Inc., a subsidiary of AT&T Inc. AT&T Intellectual Property, Inc. entities charge the applicable operating company a licensing fee for the "doing business as" use of the AT&T name and logo. Use of the AT&T brand, logo, trademarks, and service marks by a particular operating company does not signify that products or services are being offered or provided by AT&T Inc., a holding company, or the ultimate licensor, AT&T Intellectual Property, Inc.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of March, 2009, at Atlanta, Georgia.

/s/ James Lacy
James Lacy

DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B

I, Marc H. Axelbaum, hereby declare pursuant to General Order 45, § X.B, that I have obtained the concurrence in the filing of this document from the signatory listed above.

I declare under penalty of perjury that the foregoing declaration is true and correct.

Executed on March 16, 2009, at San Francisco, California.

By: /s/ Marc H. Axelbaum
Marc H. Axelbaum

Attorney for Specially Appearing Defendants AT&T Inc. and BellSouth Corporation